

Message Text

LIMITED OFFICIAL USE

PAGE 01 BONN 08594 01 OF 05 281845Z

45

ACTION EUR-12

INFO OCT-01 EA-06 ISO-00 SP-02 AID-05 EB-07 NSC-05 CIEP-01

TRSE-00 SS-15 STR-04 OMB-01 CEA-01 CIAE-00 COME-00

FRB-03 INR-07 NSAE-00 USIA-06 XMB-02 OPIC-03 LAB-04

SIL-01 IO-10 PA-01 PRS-01 INT-05 FEAEE-00 NEA-10 /113 W

----- 093219

R 281830Z MAY 75

FM AMEMBASSY BONN

TO SECSTATE WASHDC 0411

INFO AMEMBASSY LONDON

AMEMBASSY PARIS

AMEMBASSY ROME

AMEMBASSY THE HAGUE

AMEMBASSY BRUSSELS

AMEMBASSY STOCKHOLM

AMEMBASSY BERN

AMEMBASSY OTTAWA

AMEMBASSY TOKYO

AMEMBASSY CANBERRA

USMISSION OECD PARIS

USMISSION EC BRUSSELS

LIMITED OFFICIAL USE SECTION 01 OF 05 BONN 08594

DEPARTMENT PLEASE PASS TREASURY AND FEDERAL RESERVE

E.O. 11652: N/A

TAGS: EINV, XG, JA, AS, GW

SUBJECT: FOREIGN DIRECT INVESTMENT IN GERMANY

REF: A. STATE 107242, B. BONN-A397, AUGUST 5, 1974,

C. BONN 1198; D. BONN 1924; E. BONN 2617;

F. BONN 5833; G. BONN 6107; H. BONN A-116,

MARCH 1, 1074; I. BONN 18624, 1974

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 BONN 08594 01 OF 05 281845Z

1. SUMMARY. THE FRG HAS AN OPEN AND LIBERAL POLICY

TOWARD FOREIGN DIRECT INVESTMENT. THERE ARE NO RESTRICTIONS ON OR LICENSING REQUIREMENTS FOR SUCH INVESTMENT. FOREIGN AND DOMESTIC INVESTORS GENERALLY ENJOY EQUAL TREATMENT AND NO DISTINCTIONS ARE MADE BETWEEN FOREIGN INVESTMENT IN EXISTING DOMESTIC FIRMS AND THE ESTABLISHMENT OF NEW FIRMS BY NON-RESIDENTS.

WHILE THE FRG CAPITAL CONTROL PROGRAM HAS BEEN LARGELY DISMANTLED DURING THE PAST YEAR AND A HALF, CERTAIN TYPES OF CAPITAL INFLOWS CONTINUE TO BE RESTRICTED (SEE PARA 3 BELOW). REPORTING IS REQUIRED FOR THE IMPORT AND EXPORT OF CAPITAL ABOVE ESTABLISHED MINIMUMS. SUCH REPORTING IS FOR STATISTICAL PURPOSES, PRIMARILY RELATED TO BALANCE OF PAYMENTS. THIS YEAR A VOLUNTARY NOTIFICATION PROCEDURE WAS ESTABLISHED WHEREBY COMMERCIAL BANKS REPORT TO THE GOVERNMENT ANY FOREIGN PURCHASE ORDERS FOR STOCKS INVOLVING A SIGNIFICANT INTEREST IN EXISTING DOMESTIC ENTERPRISES. NEVERTHELESS, FACED WITH PUBLIC PRESSURE FOLLOWING SEVERAL LARGE OPEC INVESTMENTS THE GOVERNMENT HAS BEGUN STUDYING THE NEED FOR CERTAIN CHANGES IN RELEVANT LAWS BUT APPEARS HESITANT TO FORMALLY INTRODUCE ANY MAJOR PROPOSALS WHICH WOULD GET THE GOVERNMENT INVOLVED IN SCREENING AND MONITORING ON A CASE-BY-CASE BASIS. END SUMMARY.

2. GENERAL POLICY AND RELEVANT LAWS/REGULATIONS. THE TRADITIONAL LIBERAL POLICY AND ATTITUDE OF THE FRG TOWARD FOREIGN DIRECT INVESTMENTS ARE CLEARLY SET FORTH IN THE LAW ON FOREIGN TRADE AND PAYMENTS (AUSSENWIRTSCHAFTSGESETZ) WHICH STATES IN THE FIRST SENTENCE THAT THE EXCHANGE OF GOODS AND SERVICES, CAPITAL TRANSACTIONS, PAYMENTS AND OTHER ECONOMIC RELATIONS WITH FOREIGN NATIONS ARE IN PRINCIPLE FREE AND UNRESTRICTED.

3. TO THE EXTENT THAT RESTRICTIVE MEASURES ARE LEGALLY PERMITTED -- NOTABLY IN FULFILLMENT OF INTERNATIONAL COMMITMENTS (SECTION 5 OF ABOVE LAW), THE PRESERVATION OF DOMESTIC ECONOMIC STABILITY (SECTION 6) AND IN THE AREA OF NATIONAL SECURITY (SECTION 7) -- THEY MUST BE LIMITED TO SPECIFIC PURPOSES, MUST BE FORMULATED IN SUCH A MANNER AS TO INTERFERE AS LITTLE AS POSSIBLE WITH THE LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 BONN 08594 01 OF 05 281845Z

LIMITED OFFICIAL USE

NNN

LIMITED OFFICIAL USE

PAGE 01 BONN 08594 02 OF 05 281850Z

45

ACTION EUR-12

INFO OCT-01 EA-06 ISO-00 SP-02 AID-05 EB-07 NSC-05 CIEP-01

TRSE-00 SS-15 STR-04 OMB-01 CEA-01 CIAE-00 COME-00

FRB-03 INR-07 NSAE-00 USIA-06 XMB-02 OPIC-03 LAB-04

SIL-01 IO-10 PA-01 PRS-01 INT-05 FEAE-00 NEA-10 /113 W

----- 093297

R 281830Z MAY 75

FM AMEMBASSY BONN

TO SECSTATE WASHDC 0412

INFO AMEMBASSY LONDON

AMEMBASSY PARIS

AMEMBASSY ROME

AMEMBASSY THE HAGUE

AMEMBASSY BRUSSELS

AMEMBASSY STOCKHOLM

AMEMBASSY BERN

AMEMBASSY OTTAWA

AMEMBASSY TOKYO

AMEMBASSY CANBERRA

USMISSION OECD PARIS

USMISSION EC BRUSSELS

LIMITED OFFICIAL USE SECTION 02 OF 05 BONN 08594

FREEDOM OF ECONOMIC ACTIVITY, AND ARE SUBJECT TO
PARLIAMENTARY REVIEW. THE PROVISIONS COVERED UNDER
SECTIONS 5, 6 AND 7 HAVE NEVER BEEN EXERCISED FOR THE
PURPOSE OF EXCLUDING FOREIGN INVESTMENT.

4. RESTRICTIONS, AS STATED IN THE LAW, ARE LIMITED TO
LICENSING AND PROHIBITIONS. LICENSING IS PRESENTLY
REQUIRED FOR FOREIGN PURCHASE OF FIXED INTEREST
SECURITIES WITH A FULL OR REMAINING MATURITY OF LESS
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 BONN 08594 02 OF 05 281850Z

THAN FOUR YEARS; PURCHASES BY NON-RESIDENTS FROM RESIDENTS OF DOMESTIC DM DENOMINATED TREASURY BILLS, TREASURY NOTES AND BILLS OF EXCHANGE DRAWN OR ACCEPTED BY A RESIDENT; AND PAYMENTS OF INTEREST ON NON-RESIDENT DEPOSITS HELD WITH GERMAN BANKS (SAVINGS ACCOUNTS OF INDIVIDUALS UP TO DM 50,000 ARE EXEMPT). THERE ARE NO PROHIBITIONS ON INWARD DIRECT INVESTMENT SUCH AS REAL ESTATE PURCHASES, THE ESTABLISHMENT OF ANY ENTERPRISES BY FOREIGNERS AND THE PURCHASE OF DOMESTICALLY OWNED COMPANIES.

5. THE LAW DOES PROVIDE FOR AN EXTENSIVE NUMBER OF SPECIAL POWERS WHICH CAN, UNDER EXPLICIT PRECONDITIONS, BE EXERCISED TO RESTRICT OR EXCLUDE FOREIGN DIRECT OR PORTFOLIO INVESTMENT. THESE MEASURES (SET FORTH IN SECTION 23 OF AUSSENWIRTSCHAFTSGESETZ) MAY BE IMPOSED ONLY TO COUNTERACT A DETERIORATION IN THE PURCHASING POWER OF THE DUETSCHMARK OR TO GUARANTEE EQUILIBRIUM IN THE BALANCE OF PAYMENTS. SECTION 23 PROVIDES THAT RESTRICTIVE MEASURES IN THE FOLLOWING AREAS COULD BE (AND IN PART HAVE BEEN) IMPLEMENTED TO ACCOMPLISH THESE OBJECTIVES: (A) THE PURCHASE OF REAL PROPERTY AND RIGHTS IN SUCH PROPERTY; (B) THE PURCHASE OF SHIPS INCLUDED IN THE SHIPPING REGISTER OF A COURT LOCATED IN THE FRG AND THE RIGHTS TO SUCH SHIPS; (C) THE PURCHASE OF ENTERPRISES OR INTEREST IN ENTERPRISES; (D) THE PURCHASE OF DOMESTIC SECURITIES BY NON-RESIDENTS; (E) THE PURCHASE BY NON-RESIDENTS OF BILLS OF EXCHANGE, DRAWN OR ACCEPTED BY A RESIDENT; (F) THE RAISING OF LOANS AND OTHER CREDITS, AS WELL AS THE UTILIZATION OF PERIODS OF PAYMENT BY RESIDENTS; (G) AND THE HOLDING OF ACCOUNTS BY NON-RESIDENTS WITH BANKS IN THE FRG. THE SAME SECTION ALSO STATES THAT RESTRICTIONS MAY BE IMPOSED ON THE ESTABLISHMENT OF ENTERPRISES LOCATED IN GERMANY AND THE PROVIDING OF ENTERPRISES, BRANCHES OR SUBSIDIARIES WITH CAPITAL EQUIPMENT INCLUDING WORKING CAPITAL AND INVESTMENT CAPITAL. WHEN GERMANY BEGAN TO RESTRICT THE INFLOW OF CAPITAL SEVERAL YEARS AGO, THE GOVERNMENT RESORTED TO SECTION 23, SPECIFICALLY THE MEASURES COVERED IN (D), (E), (F), AND (G) ABOVE AND THE PROVISION OF ENTERPRISES WITH WORKING AND INVESTMENT

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 BONN 08594 02 OF 05 281850Z

CAPITAL. IN ADDITION TO THESE, THE PARLIAMENT ADDED THE BARDEPOT INSTRUMENT (ARTICLE 6A OF THE LAW) WHICH GAVE THE GOVERNMENT THE AUTHORITY TO REQUIRE ENTERPRISES WHICH BORROW ABROAD TO PLACE A SPECIFIED AMOUNT OF MONEY IN NON-INTEREST BEARING ACCOUNTS. THE OBJECTIVE OF THE CAPITAL CONTROL MEASURES WAS AN EQUILIBRIUM IN BALANCE OF PAYMENTS. WITH THE EXCEPTION OF (E) AND (G), AS

DISCUSSED EARLIER, THE GOVERNMENT NO LONGER MAINTAINS RESTRICTIONS OR CONTROLS ON THE INFLOW OF CAPITAL.

6. NATIONAL TREATMENT. FOREIGN INVESTORS IN GERMANY ARE TREATED THE SAME AS DOMESTIC INVESTORS. THERE ARE NO LAWS WHICH APPLY SPECIFICALLY TO THE FORMER. THE ONE MINOR EXCEPTION TO THIS NONDISCRIMINATORY ATTITUDE IS FOUND IN PARAGRAPH 53 OF THE GERMAN BANKING LAW WHICH CONTAINS A PROVISION THAT REQUIRES FOREIGN BANKS OPERATING IN THE FRG AND WISHING TO ESTABLISH ADDITIONAL BRANCHES IN THE FRG TO SEEK BANKING LICENSES FOR EACH SUCH BRANCH. THE LAW FURTHER STATES THAT THE LICENSE MAY BE DENIED AMONG OTHER THINGS ON THE GROUNDS THAT THE BRANCH IS NOT JUSTIFIED BY THE NEEDS OF THE GERMAN ECONOMY. SINCE GERMAN BANKS ARE NOT REQUIRED TO OBTAIN LICENSES FOR BRANCH EXPANSION IN THE FRG AND CANNOT BE DENIED A LICENSE ON THE GROUNDS OF ABSENCE OF ECONOMIC NEED, THERE IS A DISCRIMINATORY ELEMENT IN THIS PROVISION. IN ACTUAL PRACTICE, HOWEVER, IT DOES NOT APPEAR THAT FOREIGN BANKS HAVE SUFFERED SUBSTANTIALLY FROM THESE PROVISIONS (SEE REF B FOR ELABORATION).

LIMITED OFFICIAL USE

NNN

LIMITED OFFICIAL USE

PAGE 01 BONN 08594 03 OF 05 281854Z

45

ACTION EUR-12

INFO OCT-01 EA-06 ISO-00 SP-02 AID-05 EB-07 NSC-05 CIEP-01

TRSE-00 SS-15 STR-04 OMB-01 CEA-01 CIAE-00 COME-00

FRB-03 INR-07 NSAE-00 USIA-06 XMB-02 OPIC-03 LAB-04

SIL-01 IO-10 PA-01 PRS-01 INT-05 FEAE-00 NEA-10 /113 W
----- 093349

R 281830Z MAY 75

FM AMEMBASSY BONN

TO SECSTATE WASHDC 0413
INFO AMEMBASSY LONDON
AMEMBASSY PARIS
AMEMBASSY ROME
AMEMBASSY THE HAGUE
AMEMBASSY BRUSSELS
AMEMBASSY STOCKHOLM
AMEMBASSY BERN
AMEMBASSY OTTAWA
AMEMBASSY TOKYO
AMEMBASSY CANBERRA
USMISSION OECD PARIS
USMISSION EC BRUSSELS

LIMITED OFFICIAL USE SECTION 03 OF 05 BONN 08594

7. INCENTIVE PROGRAMS. SINCE FOREIGN INVESTORS IN
GERMANY ARE TREATED THE SAME AS DOMESTIC INVESTORS,
THEY ACCORDINGLY QUALIFY FOR SPECIAL INCENTIVES OFFERED
BY THE FEDERAL GOVERNMENT AND THE LAENDER GOVERNMENTS.
INCENTIVES FROM THE FEDERAL AND STATE GOVERNMENTS ARE
AVAILABLE FOR APPROVED INVESTMENTS IN MANPOWER,
TECHNOLOGY AND INFRASTRUCTURE DEVELOPMENTS. CITIES
AND LOCAL COMMUNITIES ALSO ON OCCASION HAVE OFFERED
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 BONN 08594 03 OF 05 281854Z

OR NEGOTIATED SPECIAL INCENTIVES IN EFFORTS TO
GET PARTICULAR INDUSTRIES TO LOCATE IN THEIR AREAS.
THESE INCENTIVES INCLUDE TAX BREAKS, LOW INTEREST
LOANS, FREE OR SUBSIDIZED REAL ESTATE, DIRECT SUBSIDIES
FOR CAPITAL EQUIPMENT, LAND AND ROAD DEVELOPMENT, ETC.
INVESTORS IN WEST BERLIN QUALIFY FOR ADDITIONAL
BENEFITS INCLUDING REFUND OF CERTAIN TURNOVER TAXES,
REDUCED INCOME TAXES, FAVORABLE DEPRECIATION ALLOWANCES
AND RISK GUARANTEES. THERE IS NO EVIDENCE THAT FOREIGN
INVESTORS ARE TREATED DIFFERENTLY FROM DOMESTIC INVESTORS
IN QUALIFYING FOR LOCAL INCENTIVES AND THERE ARE SEVERAL
EXAMPLES WHERE US FIRMS HAVE NEGOTIATED SIZABLE
INCENTIVE PACKAGES WITH LOCAL AUTHORITIES. (SUMMARY
OF THE VARIOUS NATIONAL AND LOCAL INCENTIVE PROGRAMS
TO FOLLOW SEPARATELY.)

8. SCREENING. THERE ARE NO FORMAL SCREENING OR
MONITORING PROCEDURES FOR INWARD DIRECT INVESTMENT.
HOWEVER, THERE IS AN INFORMAL UNDERSTANDING, WORKED
OUT EARLIER THIS YEAR, BETWEEN THE GOVERNMENT AND

PRIVATE BANKS WHEREBY THE LATTER (WHICH IN GERMANY FUNCTION ALSO AS STOCK BROKERS) WILL REPORT TO THE FEDERAL MINISTRY OF ECONOMICS ANY PURCHASE ORDERS THEY RECEIVE FROM NON-RESIDENTS FOR MORE THAN 10 PERCENT OF THE SHARE OF A DOMESTIC ENTERPRISE. THIS UNDERSTANDING FALLS IN THE CATEGORY NEITHER OF AN ACROSS-THE-BOARD SCREENING NOR OF A FORMAL REPORTING PROCEDURE BUT RATHER IS A VOLUNTARY NOTIFICATION ARRANGEMENT. IT REPRESENTS A COMPROMISE BETWEEN THE GOVERNMENT AND PRIVATE INDUSTRY TO CALM SOCIAL AND POLITICAL UNEASINESS WITHOUT LEGAL MEASURES WHICH MIGHT CREATE UNFORESEEN DIFFICULTIES IN LONGER RANGE FOREIGN RELATIONS.

9. THE UNDERSTANDING WITH THE BANKS IS INTENDED TO BE NONDISCRIMINATING WITH REGARD TO NON-RESIDENT NATIONALITY BUT FOLLOWING ON THE HEELS OF SEVERAL LARGE OPEC INVESTMENTS IN GERMANY AND BECAUSE OF THE ENORMOUS AMOUNTS OF FUNDS HELD BY THE OPEC NATIONS, AND PRESUMABLY SEEKING PLACEMENT, THERE IS A CERTAIN DISCRIMINATORY ASPECT WHICH CANNOT BE FULLY CAMOUFLAGED. THE NOTIFICATION PROCEDURE SIMPLY ALERTS LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 BONN 08594 03 OF 05 281854Z

THE GOVERNMENT TO POTENTIAL FOREIGN INVESTMENTS OF MAJOR SIGNIFICANCE AND OFFERS THE GOVERNMENT TIME TO BRIEFLY REVIEW THE INVESTMENT AND, IF JUDGED NECESSARY, MAKE AN EFFORT TO KEEP THE INVESTMENT IN THE HANDS OF RESIDENTS. THERE ARE NO FIXED PROCEDURES FOR THE REVIEW OR GUIDELINES BY WHICH THE MINISTRY HANDLES EACH CASE.

10. IN AN EFFORT TO REMOVE ANY DISCRIMINATORY ASPECTS TO THE GOVERNMENT'S NOTIFICATION PROCEDURE AND ANY CRITICISM OF ACTION TAKEN IN CONNECTION WITH IT, THE FRG HAS ATTEMPTED TO REACH BILATERAL UNDERSTANDINGS WITH SOME OF THE MAJOR OIL PRODUCING NATIONS, AT THEIR INITIATIVE, WILL INFORM THE FEDERAL REPUBLIC PRIOR TO SIZABLE DIRECT INVESTMENTS. INFORMAL UNDERSTANDINGS HAVE BEEN REACHED WITH SAUDI ARABIA, KUWAIT, THE ARAB EMERATES AND IRAN.

11. REQUIRED REPORTING. SECTION 26 (2) OF THE FOREIGN TRADE AND PAYMENTS LAW SETS FORTH THE CONDITIONS UNDER WHICH COMPULSORY REPORTING OF TRANSACTIONS IN FOREIGN TRADE, INVESTMENTS AND PAYMENTS (OR RECEIPT OF PAYMENTS) MAY BE REQUIRED. SUCH REPORTING IN THE AREA OF INVESTMENTS MAY BE AUTHORIZED: (1) TO DETERMINE WHETHER CIRCUMSTANCES WARRANT THE IMPOSITION, MODIFICATION, OR RELAXATION OF RESTRICTIONS, (2) FOR PURPOSES OF BALANCE OF PAYMENTS ACCOUNTING, (3) TO

AFFORD REVIEW OF TRADE POLICY INTERESTS, (4) TO
SATISFY OBLIGATIONS UNDER INTERNATIONAL AGREEMENTS
OR (5) TO MAINTAIN RECORDS FOR THE PURPOSE OF IMPLEMENTING
THE DEPOSIT REQUIREMENT FOR CREDITS TAKEN UP ABROAD
(SECTION 6A, PARAGRAPH 1 OF AUSSENWIRTSCHAFTSGESETZ).

LIMITED OFFICIAL USE

NNN

LIMITED OFFICIAL USE

PAGE 01 BONN 08594 04 OF 05 281855Z

45

ACTION EUR-12

INFO OCT-01 EA-06 ISO-00 SP-02 AID-05 EB-07 NSC-05 CIEP-01

TRSE-00 SS-15 STR-04 OMB-01 CEA-01 CIAE-00 COME-00

FRB-03 INR-07 NSAE-00 USIA-06 XMB-02 OPIC-03 LAB-04

SIL-01 IO-10 PA-01 PRS-01 INT-05 FEA-00 NEA-10 /113 W
----- 093374

R 281830Z MAY 75

FM AMEMBASSY BONN

TO SECSTATE WASHDC 0414

INFO AMEMBASSY LONDON

AMEMBASSY PARIS

AMEMBASSY ROME

AMEMBASSY THE HAGUE

AMEMBASSY BRUSSELS

AMEMBASSY STOCKHOLM

AMEMBASSY BERN

AMEMBASSY OTTAWA

AMEMBASSY TOKYO

AMEMBASSY CANBERRA

USMISSION OECD PARIS

USMISSION EC BRUSSELS

LIMITED OFFICIAL USE SECTION 04 OF 05 BONN 08594

12. REPORTING REQUIREMENTS FOR DIRECT INVESTMENTS ARE

COVERED IN SECTIONS 55 THROUGH 58 OF THE ORDINANCE TO
THE FOREIGN TRADE AND PAYMENTS LAW (AUSSENWIRTSCHAFTS-
VERORDNUNG). THESE REQUIREMENTS OBLIGATE THE DISCLOSURE
OF THE IMPORT AND EXPORT OF CAPITAL EXCEEDING DM 10,000.
THE REPORTS MUST BE SUBMITTED FIVE DAYS AFTER THE
BEGINNING OF THE MONTH FOLLOWING THE TRANSACTION AND
ARE SUBMITTED TO THE LAND CENTRAL BANK OF THE AREA OF
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 BONN 08594 04 OF 05 281855Z

THE DECLARING PARTY. CASES INVOLVING TRANSACTIONS OF
LESS THAN DM 10,000 DURING A PARTICULAR MONTH BUT
EQUAL TO OR ABOVE THIS FIGURE FOR THE CALENDAR YEAR MUST
BE REPORTED BY FEBRUARY 5TH OF THE FOLLOWING YEAR. THE
LAND CENTRAL BANK PASSES THE REPORTS TO THE BUNDES BANK
WHICH IN TURN FORWARDS COPIES TO THE FEDERAL MINISTRY OF
ECONOMICS. AGGREGATED REPORTS ARE PUBLISHED EVERY SIX
MONTHS BY THE MINISTRY. THE LAW PROVIDES FOR THE
CONFIDENTIALITY OF THE INDIVIDUAL LAND CENTRAL BANK
SUBMISSIONS.

13. THE REPORTS TO THE LAND CENTRAL BANKS MUST INCLUDE
THE NAME OF THE INDIVIDUAL MAKING THE TRANSACTIONS, THE
COUNTRY AND THE ECONOMIC SECTOR. REQUIREMENTS OBLIGATE
THE REPORTER ONLY TO PROVIDE FIGURES ON THE BOOK VALUE
OF AN INVESTMENT. THERE ARE NO REPORTING PROCEDURES ON
ACTUAL VALUE OF FOREIGN INVESTMENT. (SEE REF G FOR
TRANSLATION OF REPORTING FORM.)

14. OPEC INVESTMENTS. ACCORDING TO THE LATEST
GOVERNMENT REPORT ON DIRECT INVESTMENTS, FOREIGNERS
INVESTED DM 4.48 BILLION IN GERMANY IN 1974. THE
UNITED STATES LEAD WITH 28 PERCENT FOLLOWED BY SWITZER-
LAND WITH 23 PERCENT. OIL PRODUCING NATIONS' INVEST-
MENTS TOTALED 1.7 PERCENT. ALTHOUGH OPEC INVESTMENTS,
AS A PERCENT OF THE TOTAL, ARE SMALL, THERE HAVE BEEN
SEVERAL LARGE WELL PUBLICISED INDIVIDUAL INVESTMENTS --
NOTABLY AN IRANIAN INVESTMENT IN KRUPP AND A KUWAITI
PURCHASE OF 14 PERCENT OF DAIMLER-BENZ (SEE REFTEL I).

15. THE FRG IS STRONGLY MOTIVATED TO PRESERVE ITS OPEN-
DOOR POLICY TOWARD INCOMING FOREIGN INVESTMENT, BUT IT
IS FACED WITH AN UNDERCURRENT OF PUBLIC OPINION AGAINST
A COMPLETELY OPEN DOOR WITH NO SAFEGUARDS TO ASSURE THAT
VITAL INDUSTRIES REMAIN IN GERMAN HANDS. THIS PUBLIC
CONCERN AND THE GOVERNMENT EFFORT TO DEAL WITH IT IS AN
OUTGROWTH OF THE FACT THAT MANY OF THE POTENTIALLY
"DAMAGING" INVESTMENTS -- I.E., CERTAIN OF THOSE FROM
THE OPEC NATIONS -- ARE NOT NECESSARILY MADE FOR

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 BONN 08594 04 OF 05 281855Z

LIMITED OFFICIAL USE

NNN

LIMITED OFFICIAL USE

PAGE 01 BONN 08594 05 OF 05 281858Z

45

ACTION EUR-12

INFO OCT-01 EA-06 ISO-00 SP-02 AID-05 EB-07 NSC-05 CIEP-01

TRSE-00 SS-15 STR-04 OMB-01 CEA-01 CIAE-00 COME-00

FRB-03 INR-07 NSAE-00 USIA-06 XMB-02 OPIC-03 LAB-04

SIL-01 IO-10 PA-01 PRS-01 INT-05 FEAE-00 NEA-10 /113 W

----- 093412

R 281830Z MAY 75

FM AMEMBASSY BONN

TO SECSTATE WASHDC 0415

INFO AMEMBASSY LONDON

AMEMBASSY PARIS

AMEMBASSY ROME

AMEMBASSY THE HAGUE

AMEMBASSY BRUSSELS

AMEMBASSY STOCKHOLM

AMEMBASSY BERN

AMEMBASSY OTTAWA

AMEMBASSY TOKYO

AMEMBASSY CANBERRA

USMISSION OECD PARIS

USMISSION EC BRUSSELS

LIMITED OFFICIAL USE SECTION 05 OF 05 BONN 08594

ECONOMIC REASONS. SUCH TAKE-OVERS CANNOT BE EQUATED
WITH FOREIGN INVESTMENTS WHICH GENERATE NEW PRODUCTIVE
CAPACITY AND BRING IN NEW TECHNOLOGY AND BENEFICIAL

MANAGEMENT PRACTICES. FOR THIS REASON THE FRG HAS UNDER REVIEW SEVERAL MODIFICATIONS TO ITS LAW ON FOREIGN TRADE AND PAYMENTS WHICH WOULD ENABLE THE GOVERNMENT ON GROUNDS OF NATIONAL SECURITY TO DELAY OR BLOCK NON-RESIDENT INVESTMENTS IN SPECIFIC ENTERPRISES OR SECTORS (SEE REFTELS C, D, E, AND G). THE GENERAL DIRECTION OF LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 BONN 08594 05 OF 05 281858Z

THE CHANGES IN THE LAW, IF IT IS EVENTUALLY DECIDED THAT LEGAL CHANGES ARE NECESSARY, IS TO MAKE FOREIGN INVESTMENT AS TRANSPARENT AS POSSIBLE BUT AT THE SAME TIME AVOID A CASE BY CASE SCREENING PROCEDURE BY THE GOVERNMENT (SEE REFTEL G).

16. WHILE THERE HAVE BEEN A NUMBER OF OFFICIAL REFERENCES IN THE PAST SEVERAL MONTHS THAT A GROWTH IN INVESTMENTS FROM THE OIL PRODUCING NATIONS IN CERTAIN SECTORS OF THE ECONOMY PRESENT SPECIAL PROBLEMS WHICH MIGHT REQUIRE PROTECTIVE LEGISLATION, THE LATEST INDICATIONS ARE THAT THE GOVERNMENT WOULD PREFER NOT TO INTRODUCE IN PARLIAMENT ANY MEASURE WHICH WOULD DETRACT FROM THE FRG'S LIBERAL POLICY TOWARD CAPITAL FLOWS. SO FAR THE VOLUNTARY NOTIFICATION SYSTEM WITH THE BANKS SEEMS TO BE FUNCTIONING SATISFACTORILY (SEE REFTEL F) AND APPEARS TO HAVE DEFUSED FEARS THAT THE GOVERNMENT IS EITHER HELPLESS IN THE FACE OF LARGE FOREIGN INVESTMENTS OR IS DOING NOTHING TO PROVIDE SOME PROTECTION. THIS NOTWITHSTANDING THERE HAVE BEEN ACTIONS TAKEN BY CERTAIN INDUSTRIES TO LIMIT THE VOTING RIGHTS OF INDIVIDUAL INVESTORS TO A CERTAIN PERCENTAGE OF OUTSTANDING SHARES IRRESPECTIVE OF THE SIZE OF THE INVESTMENT. MANNES-MANN, THE LARGE PRODUCER OF STEEL PIPES AND THE DEUTSCHE BANK, GERMANY'S LARGEST COMMERCIAL BANK, HAVE ALREADY TAKEN THIS STEP. BOTH HAVE LIMITED THE VOTING RIGHTS TO 5 PERCENT.

HILLENBRAND

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptoning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: FOREIGN INVESTMENT, POLICIES, INVESTMENT LAW, INVESTMENT CONTROLS, LICENSES
Control Number: n/a
Copy: SINGLE
Draft Date: 28 MAY 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: ElyME
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975BONN08594
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750186-0821
From: BONN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750511/aaaaajbm.tel
Line Count: 587
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EUR
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 11
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 75 STATE 107242, 75 BONN-A397, 75 AUGUST 5, 75 1974
Review Action: RELEASED, APPROVED
Review Authority: ElyME
Review Comment: n/a
Review Content Flags:
Review Date: 17 APR 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <17 APR 2003 by BoyleJA>; APPROVED <26 SEP 2003 by ElyME>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
05 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: FOREIGN DIRECT INVESTMENT IN GERMANY
TAGS: EINV, XG, JA, AS, GE
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006